

# **EXHIBIT 8**

**Condensed Transcript**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IAN J. BROWN, JAMES BROWN  
AND BARBARA BROWN,

Plaintiffs,

VS

CIVIL ACTION NUMBER 04-11924-RGS

UNITED STATES OF AMERICA,  
VERIZON NEW ENGLAND, INC. AND  
BOSTON EDISON COMPANY  
D/B/A NSTAR ELECTRIC,

Defendants.

**DEPOSITION OF**

**IAN JAMES BROWN**

July 7, 2006  
9:40 a.m.

Prince, Lobel, Glovsky & Tye, LLP  
100 Cambridge Street, Suite 2200  
Boston, Massachusetts

Laurie J. Driggers, Notary Public, Certified Shorthand Reporter,  
Realtime Professional Reporter and Certified Realtime Reporter,  
within and for the Commonwealth of Massachusetts.



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Ian James Brown

July 7, 2006

5	7
1      comfortable.	1      A. Sir, my name is Ian James Brown,
2      Q. All right. That would be fine with	2      and I live at 223 Cotter, C-O-T-T-E-R,
3      me.	3      Avenue in Neptune, New Jersey. The zip
4      Ian, my name is Bill Worth and I	4      code there, 07753.
5      represent Verizon New England in the	5      Q. Do you have a social security
6      lawsuit you've -- you've brought against	6      number?
7      Verizon and the United States of America	7      A. Yes, sir.
8      and -- and NSTAR.	8      Q. And what is that?
9      Before I begin asking you	9      A. Sir, it's 142-78-1083.
10     questions, I just want to say for the	10     Q. How long have you resided at 223
11     record that Mr. Wilmot, who represents the	11     Cotter Avenue, Neptune, New Jersey?
12     United States of America, will be	12     A. Sir, I've lived there since I was
13     attending this deposition and has given us	13     released from the hospital following my
14     the go-ahead to start without him; he'll	14     rehabilitation in 2002.
15     be delayed slightly in arriving this	15     Q. And did you live there at any time
16     morning.	16     prior to your hospitalization?
17     And in addition, at some point in	17     A. No, sir.
18     this deposition Joshua Lewin, who is also	18     Q. Who lives there with you?
19     counsel of record for Verizon, will take	19     A. Sir, my parents.
20     over as Verizon's attorney, probably in	20     Q. Okay. And what are their names?
21     the middle of this session where Verizon	21     A. My father's name is James E. Brown.
22     is asking questions of -- of the witness.	22     Q. Mm-hmm.
23     And I understand there's no objection to	23     A. And my mother's name is Barbara B.
24     that on the part of other counsel.	24     Brown.
6	8
1      Now, Ian, we spoke a little bit	1      Q. What's your dad's age?
2      before we started the deposition about	2      A. Sir, he's 56.
3      deposition practice in terms of how to	3      Q. Okay. And your mom's age?
4      answer questions when a court reporter is	4      A. Fifty-two.
5      transcribing the events of this morning or	5      Q. And what's your age?
6      taking down our testimony rather than	6      A. Sir, I'm 29.
7      transcribing. In addition, I want you to	7      Q. What's your date of birth?
8      answer questions that I pose to you only	8      A. Sir, I was born March 22nd, 1977.
9      from your best memory. I don't want you	9      Q. You have brothers and sisters?
10     to guess. And I want you only to answer	10     A. Yes, sir.
11     those questions that you understand. I	11     Q. And who are they and where do they
12     will assume if you've answered a question,	12     live?
13     that you understood it.	13     A. Sir, I have one sister, and she
14     If you don't understand the	14     lives 15 miles south of me in Brick, New
15     question, please let me know, and I will	15     Jersey.
16     attempt to rephrase it. You understand	16     Q. How -- and what is her name and
17     everything I've said so far?	17     age?
18     A. Yes, sir.	18     A. Sir, she is 30 years old, and her
19     Q. Okay. Now, are you taking any	19     name is Jill Edwards, E-D-W-A-R-D-S.
20     medications that might impair your ability	20     Q. Okay. Now, you're letting me call
21     to understand questions?	21     you Ian, and I appreciate the courtesy of
22     A. No, sir.	22     your calling me sir, but I'm -- you don't
23     Q. Why don't you give me your full	23     have to call me sir, especially before
24     name and residential address?	24     every -- question or after every question,



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Ian James Brown

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<p style="text-align: center;">153</p> <p>1 Q. Okay. Do you remember being in the 2 hospital on January 4th? 3 A. No, sir. 4 Q. Okay. And do you remember being 5 transported to the hospital from Bedford? 6 A. No, sir. 7 Q. What is the last event you recall 8 on the day of January 4th, 2002? 9 A. Hitting the telephone pole, sir. 10 Q. Okay. Now, when you say "hitting 11 the telephone pole," can you describe for 12 me what you remember? 13 A. Sir, it's a broad question. I 14 don't know exactly what aspect that you're 15 looking at. 16 Q. Well, you said the last thing you 17 remember is hitting the telephone pole. 18 Can you describe for me what you remember 19 about hitting the telephone pole? 20 A. Sir, I remember heading toward the 21 telephone pole. My field of vision wasn't 22 on it. And I just remember contacting 23 what would've been the pole, based on my 24 position.</p>	<p style="text-align: center;">155</p> <p>1 A. Sir, normal work time in the 2 morning. 3 Q. Which is about? 4 A. Sir, it's about 8:00 -- 5 Q. Okay. 6 A. -- is when work starts, but I 7 normally go in early. 8 Q. About how early? 9 A. Sir, I would go and work out for 10 an hour or two before work. 11 Q. And do you recall doing that on 12 January 4th? 13 A. Yes, sir. 14 Q. And at some point did you leave 15 work -- by the way, when you say work, 16 where was your work at Hanscom? 17 A. Sir, it was on base at the ESC 18 building. 19 Q. And about how long would it take 20 you to get from your home to work at the 21 ESC building? 22 A. Sir, only a couple of minutes. 23 Q. Can you clarify "a couple"? 24 A. Yes, sir. Maybe ten.</p>
<p style="text-align: center;">154</p> <p>1 Q. What part of your body hit the 2 telephone pole? 3 A. My head. 4 Q. And do you remember feeling your 5 head hit the telephone pole? 6 A. No, sir. And also you didn't let 7 me finish the -- what I felt I hit the 8 telephone pole. I -- I -- there may have 9 been other parts of my body that hit it. 10 I just remember stopping and I remember 11 impacting the pole, but I don't know 12 exactly what orientation my body was 13 immediately after and immediately at the 14 point of impact. 15 Q. Okay. Well, let's step back a 16 little. Do you remember events of the day 17 of January 4th before you got on your 18 motorcycle leaving your house to return to 19 Hanscom Air Force Base? 20 A. Yes, sir. 21 Q. Okay. Can you tell me what you 22 did on the day of January 4th? 23 A. Sir, I went to work. 24 Q. At what time?</p>	<p style="text-align: center;">156</p> <p>1 Q. Around ten minutes? 2 A. Sir, it could be more or less. 3 Q. Okay. Would you say more than 4 five? 5 A. Sir, it could be more than five. 6 Q. What's your best guess about how 7 long it took you to get to work? 8 MR. CHARNAS: Objection. 9 Q. From your residence? 10 A. Sir, I could only give a best-faith 11 estimate. 12 Q. What's your best-faith estimate? 13 A. My best-faith estimate would be 14 about five to ten minutes. 15 Q. All right. And on the day of 16 January 4th, did you ride your motorcycle 17 to work that morning? 18 A. No, sir. 19 Q. Okay. How did you get to work? 20 A. Sir, I drove my pickup truck. 21 Q. And at some point did you return 22 from work to your residence? 23 A. Yes, sir. 24 Q. Okay. And about what time was</p>



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<p style="text-align: center;">161</p> <p>1 Q. Can you approximate how often you 2 drove your motorcycle to work in the 3 wintertime of 2002?</p> <p>4 MR. CHARNAS: You mean 5 2001/2002?</p> <p>6 MR. LEWIN: Yes.</p> <p>7 A. Sir, can you repeat the question?</p> <p>8 Q. Sure. Could you tell me how 9 frequently you drove your motorcycle to 10 work versus your pickup truck?</p> <p>11 A. During the winter months?</p> <p>12 Q. Yes. Of 2001 and 2002.</p> <p>13 A. I could give you an estimate. At 14 best, once a week.</p> <p>15 Q. Okay. And would that be one day 16 per week or --</p> <p>17 A. Sir, one day per week. Sir, the 18 winter of 2001 started in the late 19 December and we had a break and I -- my 20 accident was in -- on January 4th, so time 21 wise there was not much time in there, so.</p> <p>22 Q. And I apologize if Mr. Worth has 23 asked you this question already. But how 24 long had you been stationed at Hanscom Air</p>	<p style="text-align: center;">163</p> <p>1 BY MR. LEWIN: 2 Q. All right. When you left your 3 house at 129 Independence Court to return 4 to work on January 4th, can you tell me 5 the course of travel that you took to get 6 to work?</p> <p>7 A. Sir, I took the main roadway from 8 my house to work.</p> <p>9 Q. Okay. And is that Hartwell Road?</p> <p>10 A. Sir, it includes Hartwell Road.</p> <p>11 Q. Okay. And again, I'm referring to 12 when you left after lunch right before 13 your accident, did you take a right onto 14 Hartwell Road from Independence Court; is 15 that correct?</p> <p>16 A. Sir, the intersection it's -- it's 17 roughly -- going back, yes.</p> <p>18 Q. Okay. And about how far from 19 Independence Court to the place at which 20 you lost control of the motorcycle would 21 you say it was?</p> <p>22 A. Can you repeat that? I missed 23 the --</p> <p>24 Q. About how far from the intersection</p>
<p style="text-align: center;">162</p> <p>1 Force Base prior to January of 2002?</p> <p>2 A. Sir, I had been there since the 3 summer of 2002, several months at best.</p> <p>4 Q. Summer of 2001?</p> <p>5 A. Correction. Sorry.</p> <p>6 Q. And did you live at 129 7 Independence Court the entire time?</p> <p>8 A. No, sir.</p> <p>9 Q. Okay. Where else did you live?</p> <p>10 A. Sir, I lived in Nashua, New 11 Hampshire.</p> <p>12 Q. And is that where you moved first 13 when you were stationed at Hanscom Air 14 Force Base?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. And when did you move from 17 Nashua -- Nashua to 129 Independence 18 Court?</p> <p>19 MR. CHARNAS: We did cover 20 this.</p> <p>21 MR. LEWIN: You did? Okay.</p> <p>22 I apologize.</p> <p>23 MR. CHARNAS: That's okay.</p> <p>24 MR. LEWIN: I apologize.</p>	<p style="text-align: center;">164</p> <p>1 of Independence Court and Hartwell Road to 2 the point at which you lost control of 3 your motorcycle, what was that distance?</p> <p>4 A. Sir, I could only give an estimate.</p> <p>5 Q. Okay.</p> <p>6 A. I would estimate that it was less 7 than a mile.</p> <p>8 Q. Okay. And sitting here today, do 9 you have a memory of driving the 10 motorcycle at that period from the corner 11 of Independence Court and Hartwell Road to 12 the spot at which you lost control of the 13 motorcycle?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And did you have any trouble 16 with the motorcycle during that period?</p> <p>17 A. Sir, the context of the question, 18 can you clarify?</p> <p>19 Q. Sure.</p> <p>20 Did the motorcycle appear to you to 21 be operating properly at the time?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. There were no trouble that 24 you noticed with the tires of the</p>



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<p style="text-align: center;">165</p> <p>1 motorcycle? 2 A. Sir, that I noticed? No. 3 Q. Okay. Well, have you learned since 4 then that there were any problems with the 5 tires on the motorcycle? 6 A. Sir, I have not. 7 Q. Okay. Were you aware of any other 8 technical problems with the motorcycle at 9 that time? 10 A. Sir, I was not aware of any. 11 Q. Okay. Have you become aware since 12 that time of any problems with the 13 motorcycle? 14 A. No, sir. 15 Q. Now, at some point you lost control 16 of the motorcycle; is that right? 17 A. Yes, sir. 18 Q. And do you remember that? 19 A. Yes, sir. 20 Q. And since the time of the accident, 21 have you always remembered losing control 22 of the motorcycle? 23 A. Yes, sir. 24 Q. Okay. Has your memory changed at</p>	<p style="text-align: center;">167</p> <p>1 about my memory of losing control? 2 Q. I just want to know everything you 3 can remember about the time at which you 4 lost control of the motorcycle. 5 A. Sir, when the motorcycle was no 6 longer in my control, I remember feeling 7 the bike falling out of control and 8 pushing off with my feet from the bike to 9 turn my back to the approaching guardrail. 10 Q. Prior to you feeling that you were 11 losing -- you were no longer in control of 12 the bike, what caused you to lose control 13 of the -- of the motorcycle? 14 A. Sir, the motorcycle lost control 15 after exiting the depression that was in 16 the road. 17 Q. Okay. Did you see the depression 18 in the road before the motorcycle hit the 19 depression in the road? 20 A. Yes, sir. 21 Q. Okay. And did you slow down when 22 you saw the depression in the road? 23 A. Yes, sir. 24 Q. Okay. And about how fast were you</p>
<p style="text-align: center;">166</p> <p>1 all over time? Well, let me rephrase the 2 question. Has your ability to remember 3 what happened in the accident changed at 4 all over time? 5 A. No, sir. My ability is fine. 6 Q. Do you -- do you recall talking to 7 a police officer and telling them that you 8 had no idea what happened after the 9 accident? 10 A. Sir, I do not remember that. 11 Q. Do you remember speaking to any 12 paramedics or emergency personnel and 13 telling them that you don't remember what 14 happened at the accident? 15 A. No, sir. I do not remember telling 16 any personnel at the accident. 17 Q. Do you remember speaking with any 18 doctors and telling them that you had no 19 recollection of the accident? 20 A. No, sir. 21 Q. What do you remember about losing 22 control of the motorcycle? 23 A. Sir, specific -- I'm asking, in a 24 specific context, what are you asking</p>	<p style="text-align: center;">168</p> <p>1 going before you saw the depression in the 2 road? 3 A. Sir, about the speed limit of 25. 4 Q. All right. Do you remember looking 5 at your speedometer at the time? 6 A. No, sir. 7 Q. So it's fair to say that your 8 memory that you were going -- when you say 9 about 25 -- is just your best estimate at 10 this point? 11 A. No, sir. 12 Q. Okay. Well, what's the basis of 13 your statement that you know you were 14 going 25 miles an hour? 15 MR. CHARNAS: I think he 16 said about 25, didn't he? Okay. 17 A. Sir, I know that I was going about 18 25 based on visual cues. You know roughly 19 how fast you're going on a motorcycle by 20 look. But if you take your eyes off of 21 the road and look at the speedometer it's 22 not safe sometimes. 23 Q. All right. Do you have any 24 training in estimating how fast you're</p>



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<p style="text-align: center;">177</p> <p>1 of the bike? 2 A. Yes, sir. 3 Q. All right. And can you describe 4 that for me? 5 A. Yes, sir. The bike -- front tire 6 of the bike slid out from underneath me. 7 The bike began to topple over toward its 8 right side. I felt the bike losing 9 control, and I exited the bike in a way 10 to make myself safe from getting trapped 11 underneath it. 12 Q. All right. Now you said the bike 13 fell in such a way as to fall on its 14 right side. Do you recall when the handle 15 bar -- sorry -- do you recall the handle 16 bars moving at all on the bike as you 17 lost control of it? 18 A. No, sir. 19 Q. Okay. They remained straight? 20 A. Sir, that's an assumption that you 21 are making. I don't recall the movement 22 of the handle bars in the process. 23 Q. Okay. Now, when you say the bike 24 fell so that it was landing on its right</p>	<p style="text-align: center;">179</p> <p>1 A. Yes, sir. 2 Q. -- is that right? 3 Okay. And so you positioned your 4 body as you're in the air; is that right? 5 A. That's right. 6 Q. By the way, did you ever hit the 7 ground between the point where you lost 8 control of the bike and the time that you 9 impacted the guardrail? 10 A. Sir, I do not remember hitting the 11 ground. 12 Q. Okay. Do you have a recollection 13 of being in the air the entire time? 14 A. Sir, I have a recollection of being 15 in the air at the time of the accident. 16 Q. Well, when you say "at the time of 17 the accident," what do you mean by that? 18 A. I remember leaving the motorcycle, 19 turning my back to the guardrail and being 20 in the air during that process. 21 Q. Okay. And at some point did you 22 hit the guardrail? 23 A. Yes, sir. 24 Q. And do you recall hitting the</p>
<p style="text-align: center;">178</p> <p>1 side, would -- was the back tire coming 2 around to your right or around to your 3 left side? 4 MR. CHARNAS: Objection. 5 A. Sir, the back tire was not coming 6 around in a direction -- 7 Q. Okay. 8 A. -- that I remember. 9 Q. So the bike just fell towards your 10 right side; is that correct? 11 A. Yes, sir. 12 Q. Okay. And as that happened, you've 13 explained how you tried to position your 14 body, but I'm not sure I understood it. 15 If you could explain it to me again. 16 A. Sir, I saw the encroaching 17 guardrail, and I pushed off with my feet 18 and turned my back to the guardrail for 19 safety -- 20 Q. Okay. 21 A. -- and used the guardrail to guide 22 me. 23 Q. And as you came off the bike, you 24 were coming head first --</p>	<p style="text-align: center;">180</p> <p>1 guardrail? 2 A. Sir, my eyes were in the opposite 3 plane from hitting the guardrail, but the 4 path that I was on and the aim point that 5 I had picked as a best-faith estimate, I 6 can say that I hit the guardrail that was 7 in my line of path -- in my line of 8 travel. But -- 9 Q. And what was -- go ahead. 10 A. I answered already. 11 Q. Okay. 12 A. Sorry. 13 Q. What was the first part of your 14 body that hit the guardrail? 15 A. Sir, the first part of the 16 guardrail that I hit -- my body, that I 17 remember, there might've been a minor 18 change, maybe the back of my heel hit, I 19 have no idea what the first point is -- 20 what the first point that I remember 21 hitting was my back. 22 Q. Okay. About where on your back? 23 A. Sir, I do not recall. 24 Q. Okay. Go ahead.</p>



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1 Q. Do you recall?	1 A. Yes, sir.
2 A. I do not recall.	2 Q. And do you remember consciously
3 Q. Okay. You said you hit a	3 avoiding the manhole with your motorcycle?
4 depression in the roadway on Hartwell	4 A. Yes, sir.
5 Road.	5 Q. By the way, what's the speed limit
6 A. Yes, sir.	6 on Hartwell Road?
7 Q. Okay. Can you describe what that	7 A. Sir, it's 25.
8 depression -- what you recall about that	8 Q. After you hit the telephone pole --
9 depression?	9 well, you said the first part of your body
10 A. Yes, sir. The depression that was	10 was your head that hit the telephone pole.
11 in the roadway was surrounding a manhole	11 What's the next thing you remember?
12 cover, and it was in the lane leaving	12 A. Sir, that question was asked in a
13 Independence Court along Hartwell Road.	13 different context and the same answer --
14 And I have driven past that very pothole,	14 Q. Okay.
15 ran past it while jogging and ridden my	15 A. -- is that the next thing I
16 bicycle fast many times, and from what I	16 remember after contacting the telephone
17 recall of that pothole, I remember always	17 pole was waking up in the hospital.
18 consciously and subconsciously thinking	18 Q. Okay. So you don't remember any
19 that it was a dangerous situation. And it	19 time -- you don't remember landing on the
20 went down several inches into the roadway,	20 ground after you hit the telephone pole?
21 unlike many of the other manhole covers	21 A. Correct.
22 that I had encountered anywhere else in	22 Q. Okay. Okay. Do you remember
23 the country.	23 having any pain when you hit the telephone
24 Q. And do you remember, from what you	24 pole?
194	196
1 had seen, about how many inches it went	1 A. Sir, I do not remember.
2 down?	2 Q. Okay.
3 A. Sir, I can only give a best-faith	3 MR. CHARNAS: Off the
4 estimate of about three inches.	4 record.
5 Q. So on the day of January 4th, 2002,	5 (Off the record at 2:08
6 you were aware that there was an	6 p.m.)
7 unusually-dangerous manhole on Hartwell	7 (Discussion off the record).
8 Road?	8 (Back on the record at 2:09
9 A. Yes, sir.	9 p.m.)
10 Q. And you had seen it many times	10 BY MR. LEWIN:
11 before?	11 Q. What's the first thing you remember
12 A. Yes, sir.	12 when you woke up in the hospital?
13 Q. Okay. Had you ever driven over it	13 A. Looking at the ceiling tiles.
14 on your motorcycle before?	14 Q. Did you know where you were?
15 A. No, sir.	15 A. No, sir. I had no clue.
16 Q. How about with your pickup truck?	16 Q. Did you know what had happened?
17 Let me ask you a different question. Do	17 A. No, sir.
18 you ever recall driving in your pickup	18 Q. Did you have any idea what was
19 truck and hitting the depression with one	19 going on?
20 of the tires of the pickup truck?	20 A. No, sir.
21 A. No, sir.	21 Q. Okay. Who was the first person
22 Q. Okay. Do you remember consciously	22 that you saw? .
23 avoiding the manhole cover with your	23 A. Sir, looking back, I actually don't
24 pickup truck?	24 remember now --



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<p style="text-align: center;">297</p> <p>1 started, when I started recognizing people 2 and engaging in conversation, I -- I think 3 my memory was okay at that point. It was 4 better than, you know, when I was of 5 heavily, heavily medicated.</p> <p>6 Q. I want to go back to the day of 7 the accident.</p> <p>8 A. Yes, sir.</p> <p>9 Q. Actually, let me go back to your 10 motorcycle.</p> <p>11 You purchased the motorcycle in New 12 Jersey?</p> <p>13 A. Yes, sir.</p> <p>14 Q. It was new when you purchased it?</p> <p>15 A. Brand new, sir.</p> <p>16 Q. Do you recall what you paid for it?</p> <p>17 A. No, sir. The bill of sale shows, 18 which we have record of.</p> <p>19 Q. Okay. Now, when you -- in your 20 answers to interrogatories, you indicated 21 that certain work was done to it. For 22 example, date of purchase in your answers 23 to interrogatories is July 6th of 2001?</p> <p>24 MR. CHARNAS: Excuse me,</p>	<p style="text-align: center;">299</p> <p>1 Q. Now, it says on July -- above that 2 on Section E it says "on July 6th, 2001 3 the fender kit and blinker kit were 4 installed."</p> <p>5 A. (Witness viewing document). Yes, 6 sir.</p> <p>7 Q. That was like some additional 8 optional equipment that you had put out 9 there?</p> <p>10 A. Sir, I think that was just 11 something from the dealership that they 12 installed.</p> <p>13 Q. And on September 24th, 2001 you had 14 a fuel tank, tail cover and seat cover and 15 fuel tank cap installed for. Do you see 16 that?</p> <p>17 A. (Witness viewing document). Yes, 18 sir.</p> <p>19 Q. What was the reason for having that 20 done?</p> <p>21 A. Sir, the motorcycle had scratches 22 on the tank, my brand new tank, and I do 23 not recall at the exact reasoning that it 24 was done, but I think there was an</p>
<p style="text-align: center;">298</p> <p>1 Mike, which set are you referring to?</p> <p>2 MR. CALLAHAN: I'm sorry.</p> <p>3 I'm looking at Plaintiff Ian Brown's 4 Answers to Boston Edison's First Set of 5 Interrogatories.</p> <p>6 MR. CHARNAS: Which number?</p> <p>7 MR. CALLAHAN: Number 6.</p> <p>8 MR. CHARNAS: Go ahead.</p> <p>9 I'm sorry.</p> <p>10 A. (Witness viewing document).</p> <p>11 Q. And if you look at Answer 6 F, it 12 indicates that you purchased the motorcycle 13 on July 6th of 2001?</p> <p>14 A. (Witness viewing document). Yes, 15 sir.</p> <p>16 Q. Does that refresh your recollection 17 as to when you purchased the motorcycle?</p> <p>18 A. Sir, I would have to check the bill 19 of sale.</p> <p>20 Q. Okay that --</p> <p>21 A. Sounds --</p> <p>22 Q. It sounds about right?</p> <p>23 A. It could -- yeah. It could be 24 pretty close.</p>	<p style="text-align: center;">300</p> <p>1 insurance issue. I think insurance had 2 paid for them to replace that.</p> <p>3 Q. Do you know how those scratches 4 came to be on the fuel tank?</p> <p>5 A. Sir, I do not know. I think that 6 it was an insurance thing and maybe 7 vandalism or wind or something. I would 8 have to check with insurance why they -- 9 why they put that claim through.</p> <p>10 Q. Well, when you purchased the 11 motorcycle on July 6th or July of 2001, 12 did -- were those scratches it?</p> <p>13 A. No, sir.</p> <p>14 Q. So something happened while you 15 owned the vehicle?</p> <p>16 A. No, sir.</p> <p>17 Q. While you opened the motorcycle?</p> <p>18 A. No, sir. I would have to check. 19 But I think that something happened while 20 I was -- actually had the motorcycle 21 actually stationary or parked.</p> <p>22 Q. Well, after you had purchased it?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And so did you -- you</p>



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Ian James Brown

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<p style="text-align: center;">329</p> <p>1 see the clearance. I'm sorry. I don't 2 mean to be rude in any means, I just 3 don't -- I don't know. 4 Q. You're an experienced motorcycle 5 rider. You've ridden for a while -- 6 A. Yes, sir. 7 Q. -- you have to tell me -- you have 8 to have some idea what your position was 9 as you rode over the depression? 10 A. Sir, a few inches, but I've never 11 looked at myself while riding a 12 motorcycle. 13 Q. Okay. 14 A. As a best-faith estimate, my hips 15 were a couple of inches off. 16 Q. Fair enough, you weren't standing 17 straight up -- 18 A. No, sir. 19 Q. -- on the motorcycle? 20 A. No, sir. 21 Q. Okay. As you went over the road 22 depression and you were -- I don't know 23 how to describe your position -- but kind 24 of --</p>	<p style="text-align: center;">331</p> <p>1 lose your balance, per se. And the way I 2 am explaining it, I'm trying to draw a 3 parallel in saying that you can feel when 4 you're no longer on your -- the right 5 center like. You can feel when you're 6 about to lose your balance and slip, just 7 as when you're walking. If you're sitting 8 up and you're about to fall over, you feel 9 that center of gravity shift. And I felt 10 the bike was losing control by a 11 gravitational feel and a positional feel. 12 I felt that the bike was about to fall. 13 Q. Okay. Would you equate that with 14 saying that you were losing control of the 15 -- of the motorcycle? 16 A. Sir, I'm not quite sure I 17 understand the manner in your asking. 18 Q. Okay. Well, you were riding the 19 motorcycle, and as the operator you have 20 full control over where the motorcycle 21 goes -- 22 A. Right. 23 Q. -- what you do with it. Now, as 24 you hit the depression, at some point in</p>
<p style="text-align: center;">330</p> <p>1 A. Standing on the pegs. 2 Q. -- standing on the pegs, what 3 happened next in terms of your physical 4 position on the motorcycle or to the 5 motorcycle itself? 6 A. Can you repeat the question, I 7 wanted to find out at what point you're 8 referring to? The -- 9 Q. As you're going over -- as your 10 rear tire was going over the -- 11 A. Yes. 12 Q. -- road depression, what happened 13 next to either you, in terms of your 14 physical positioning on the motorcycle, or 15 to the motorcycle itself? 16 A. I felt the motorcycle lose control 17 and began to react because I know that 18 there was no easy correction I could've 19 made to rectify it. 20 Q. Okay. Now, you've used that phrase 21 several times in terms of the motorcycle 22 losing control. What do you mean by that? 23 A. Sir, when you walk, you feel a 24 point at which you're about to fall if you</p>	<p style="text-align: center;">332</p> <p>1 time you lost control of your ability to 2 maneuver and operate the motorcycle; is 3 that correct? 4 A. Yes, sir, I no longer control. 5 Q. All right. And what part of your 6 body either came off the motorcycle first 7 or -- what did you do? Did you lose your 8 grip on the handle bars? 9 A. No, sir. 10 Q. Did you lose your feet? 11 A. What I did was I pushed off with 12 my feet first. I used my hands on the 13 bike as balance as the bike was going down 14 and used the bike as a reference -- as a 15 center of gravity to push off of as it 16 was tucking. 17 Q. Okay. 18 A. And -- 19 MR. CHARNAS: Did you finish 20 your answer? 21 BY MR. CALLAHAN: 22 Q. I'm sorry. Go ahead. 23 A. No, sir. 24 -- and I began to use my feet to</p>



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<p>1 push off to get those clear so that my  2 legs were not trapped underneath. And I  3 began to turn my shoulders in a manner to  4 start protecting myself from the  5 encroaching guardrail.</p> <p>6 Q. How far had the motorcycle traveled  7 past the road depression when you made the  8 decision to push off the motorcycle?</p> <p>9 A. Sir, that I have no idea, because I  10 was not looking behind from where the  11 manhole cover was to where I was when I  12 pushed off. I simply felt that the bike  13 was going down and knew I had only a few  14 split seconds to keep myself safe. I  15 didn't look to see how far that was.</p> <p>16 Q. Where were you looking?</p> <p>17 A. I was looking for an aim point.  18 Basically, something that — any time you  19 have a parachute accident or any accident,  20 you look for, you know, your safest  21 option, and I was looking for a place to  22 turn so that I could slide in a safe  23 manner as possible.</p> <p>24 Q. When you say — I'm sorry. When</p>	<p>1 path of travel so that the bike didn't  2 come over top of my, per se, or the gas  3 tank opening up.</p> <p>4 But I wanted to pick a point where  5 I was gonna be safe from the roadway and  6 from all the other conditions. So I  7 picked a shallow angle at something that I  8 would just glide along.</p> <p>9 Q. Did all those thoughts go through  10 your mind during this incident in terms of  11 picking an aim point, wanting to make sure  12 that the bike didn't roll over you,  13 concern about the gas tank, did all of  14 those thoughts go through your mind during  15 the accident?</p> <p>16 A. Sir, I would not say all of the  17 specifics are things I focused on. But in  18 all my time in training in parachuting and  19 such, you know so much of what's going on  20 around you in such a short amount of time,  21 it's what you train — you spend your  22 entire life focusing on maximizing those  23 seconds that you're in free fall, your  24 body position and these things, so that's</p>
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<p>1 you say an "aim point," what do you mean  2 by that?</p> <p>3 A. If you eject out of an aircraft,  4 you don't want it to just crash over a  5 neighborhood, so you try to aim the  6 aircraft at something it's going to do the  7 least impact. I tried to aim my body at  8 something that does the least damage to  9 me.</p> <p>10 Q. And what did you aim your body at?</p> <p>11 A. At the guardrail.</p> <p>12 Q. You had a full kevlar suit on,  13 correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. Did you make a choice not  16 to go down with the bike and slide along  17 the ground?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. And why is that?</p> <p>20 A. It looked much safer to avoid the  21 bike, to get away from it. There are  22 many things that could happen potentially,  23 but I wanted to make some distance and  24 change my path of travel from the bike's</p>	<p>1 -- reverting back to my training after 805  2 parachute jumps and orienting my body in  3 space and doing these things and avoiding  4 injury by picking aim points and stuff,  5 these were all things that are just  6 instinct to me. So they're thoughts that  7 are going through my head as I'm  8 performing them in a quick and efficient  9 manner.</p> <p>10 Q. So the aim point that you're  11 referring to, is an aim point that you're  12 going to aim your body at in order to try  13 to minimize risk to you?</p> <p>14 A. Yes, sir.</p> <p>15 Q. It's not an aim point that you  16 would direct the motorcycle towards?</p> <p>17 A. Oh, no, sir.</p> <p>18 Q. When you were picking that aim  19 point, I take it you saw the guardrail?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did you see the telephone or  22 utility pole? - -</p> <p>23 A. No, sir.</p> <p>24 Q. How far were you from the guardrail</p>

**Condensed Transcript**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IAN J. BROWN, JAMES BROWN  
AND BARBARA BROWN,

Plaintiffs,

VS.

CIVIL ACTION NUMBER:  
04-11924-RGS

UNITED STATES OF AMERICA,  
VERIZON NEW ENGLAND, INC., and  
BOSTON EDISON COMPANY  
d/b/a NSTAR ELECTRIC,

Defendants.

**DEPOSITION OF**

**IAN JAMES BROWN**

**VOLUME II**

July 14, 2006  
9:14 a.m.

Prince, Lobel, Glovsky & Tye, LLP  
100 Cambridge Street, Suite 2200  
Boston, Massachusetts

Ayako Odanaka, Notary Public, Certified Shorthand Reporter and Registered  
Professional Reporter within and for the Commonwealth of Massachusetts



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<p style="text-align: center;">371</p> <p>1 I -- My body and my head were pointed and      2 oriented in the direction of travel. So if      3 I were going down the roadway on the      4 motorcycle, when I pushed off, my head --      5 I was traveling down the road head first      6 in the direction that the motorcycle was      7 traveling, in a general sense. But      8 whether or not whether the motorcycle went      9 one direction and I went another, you      10 know, would not be the exact same      11 direction, but I was going head first down      12 the roadway.</p> <p>13 Q. And the road, after the manhole      14 where the depression was, does Hartwell      15 Road kind of incline and curve to the      16 left?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Do you have a -- You testified that      19 you were not heading at the guardrail on      20 what I would kind of call a 90-degree      21 angle, straight toward the guardrail. Do      22 you have a memory as to what angle you      23 were traveling toward the guardrail?</p> <p>24 A. Sir, the best faith estimate, as I</p>	<p style="text-align: center;">373</p> <p>1 understand that to mean the angle between      2 the guardrail and your body as it      3 approached the guardrail?</p> <p>4 A. Correct, sir.</p> <p>5 Q. Do you recall what was on the other      6 side of the guardrail?</p> <p>7 A. Sir, can I have the question      8 clarified?</p> <p>9 Q. Sure. Let me re-ask it. Do you      10 have a memory of whether or not there was      11 anything in the ten to fifteen feet area      12 beyond the guardrail?</p> <p>13 A. Sir, I used to drive by that every      14 day, walk by it, bicycle passed it, as I      15 mentioned earlier. And knowing that I      16 knew there were trees there at the time.      17 But at the time of the accident my eyes      18 were averted away from the guardrail. So      19 I did not see what exact obstructions were      20 on the ten to fifteen feet on the side of      21 the guardrail in the stretch of roadway      22 that I was on.</p> <p>23 Q. Do you recall how many feet --      24 Strike that. At the location where you --</p>
<p style="text-align: center;">372</p> <p>1 stated earlier, it was a shallow angle. I      2 mean, it was certainly not orthogonal as      3 you mentioned. I don't know what that      4 angle was. But I know that it was it was      5 shallow enough that it did not seem to be      6 -- That I would anticipate a very strong      7 impact. It looked like I was going to      8 glance along the side of it.</p> <p>9 MR. CALLAHAN: Off the      10 record for a minute.</p> <p>11 (Discussion off the record).</p> <p>12 BY MR. CALLAHAN:</p> <p>13 Q. You testified it was a shallow      14 angle and can you give me any better      15 understanding as to what angle you were      16 heading toward the guardrail?</p> <p>17 A. Sir, as a best faith estimate, I      18 can only say that it was less than 45      19 from my perception. But again, my eyes      20 were averted away from the guardrail at      21 the time of impact. I would anticipate      22 that it was decreasing but I cannot say      23 for sure.</p> <p>24 Q. When you say "less than 45," do I</p>	<p style="text-align: center;">374</p> <p>1 Your body came into contact with the      2 guardrail, do you recall how many feet      3 that was from the utility pole along      4 Hartwell Road that you believe you struck?</p> <p>5 A. No, sir, I do not recall.</p> <p>6 Q. Do you know if it was -- Do you      7 recall whether it was more than ten feet      8 from the utility pole?</p> <p>9 A. No, sir, I do not recall.</p> <p>10 Q. Do you know if it was more than 20      11 feet from the utility pole?</p> <p>12 A. Sir, I do not recall.</p> <p>13 Q. I believe you testified earlier      14 that when you picked the aim point you did      15 not see the utility pole; is that right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Do you have a memory as to --      18 Strike that. When you came into contact      19 with the guardrail, did the direction in      20 which your body was traveling change or      21 was it affected by the guardrail?</p> <p>22 MR. CHARNAS: I'm sorry,      23 could we have that question read back,      24 please?</p>



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<p>379</p> <p>1 utility pole?</p> <p>2 MR. CHARNAS: I'm going to</p> <p>3 object it was asked and answered. But go</p> <p>4 ahead and answer it again if you want.</p> <p>5 A. Sir, my what I am saying is that</p> <p>6 the guardrail changed the path along which</p> <p>7 I was traveling. I contacted the</p> <p>8 guardrail and was then traveling along the</p> <p>9 path of the guardrail. The guardrail</p> <p>10 changed my path, my body's motion, so that</p> <p>11 the guardrail now dictated how my body was</p> <p>12 moving and not the general physics of the</p> <p>13 situation.</p> <p>14 Q. I think we're saying the same thing</p> <p>15 but I'm just --</p> <p>16 A. I think so too. I don't mean to</p> <p>17 get too technical and too vague.</p> <p>18 Q. I understand. Would it be fair to</p> <p>19 say that your body direction was not a</p> <p>20 straight line from where you exited --</p> <p>21 Exited the motorcycle directly to the</p> <p>22 utility pole?</p> <p>23 A. Correct, sir.</p> <p>24 MR. CHARNAS: Wait, when you</p>	<p>381</p> <p>1 understanding that the direction of your</p> <p>2 body did not travel along the straight</p> <p>3 line from point A to point B as I've just</p> <p>4 described them; is that correct?</p> <p>5 A. Sir, that is 100 percent accurate.</p> <p>6 My body was not -- The path of my body</p> <p>7 was not on the line that you have drawn.</p> <p>8 Q. Using the same kind of basic math,</p> <p>9 if we -- If we describe the point on the</p> <p>10 guardrail as being point A, let's say the</p> <p>11 point of your motorcycle, where you left</p> <p>12 the motorcycle is point A, the point where</p> <p>13 you came into contact with the guardrail</p> <p>14 as being point B and the utility pole as</p> <p>15 being point C, your body traveled from</p> <p>16 point A to point B, and then from point B</p> <p>17 to point C; is that accurate?</p> <p>18 A. Sir, can we get a chalkboard?</p> <p>19 Q. I can give you a piece of paper if</p> <p>20 you --</p> <p>21 A. I think I understand the question</p> <p>22 being that point A is where I left the</p> <p>23 motorcycle, point C is the guardrail,</p> <p>24 point B is the telephone pole and you're</p>
<p>380</p> <p>1 say, "a straight line" you mean a</p> <p>2 perpendicular line?</p> <p>3 MR. LEWIN: Straight line.</p> <p>4 MR. CALLAHAN: A straight</p> <p>5 line, perpendicular anticipates another</p> <p>6 line.</p> <p>7 MR. CHARNAS: Could we go</p> <p>8 off the record for a second?</p> <p>9 (Discussion off the record).</p> <p>10 BY MR. CALLAHAN:</p> <p>11 Q. Just so we're clear, my prior</p> <p>12 question was -- Was related -- Strike</p> <p>13 that. Just so we're clear, what I was</p> <p>14 trying to get at with my prior question</p> <p>15 was I wanted to -- If you think about a</p> <p>16 straight line you think about a line</p> <p>17 directly from one point to another point;</p> <p>18 do you understand that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. And what I was asking you</p> <p>21 was if you -- If you take the first point</p> <p>22 A as being the point at which you pushed</p> <p>23 off the motorcycle and point B being the</p> <p>24 location of the utility pole, it's my</p>	<p>382</p> <p>1 asking if --</p> <p>2 Q. No, I changed them up a little bit.</p> <p>3 That's probably what confused you. Point</p> <p>4 A being your position on the motorcycle at</p> <p>5 the time you pushed off, B being the point</p> <p>6 on where your body came into contact with</p> <p>7 the guardrail, and C being the location of</p> <p>8 the utility pole. So is it fair to say</p> <p>9 that your body traveled from point A to B</p> <p>10 and then from B to C?</p> <p>11 A. Sir, are we talking straight lines</p> <p>12 only?</p> <p>13 Q. For the purposes of this question,</p> <p>14 yes.</p> <p>15 A. No, sir.</p> <p>16 Q. Okay. Can you describe for me what</p> <p>17 wouldn't be a straight line along those</p> <p>18 points?</p> <p>19 A. Sir, because of wind friction and</p> <p>20 the laws of physics that are well beyond</p> <p>21 me I can only estimate that my body had</p> <p>22 some sort of, like, deceleration or some</p> <p>23 external force that may not have been 100</p> <p>24 percent straight line. I don't think that</p>



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<p style="text-align: center;">511</p> <p>1 Q. And when is that or how often is 2 that? 3 A. Sir, mornings and nights. It 4 varies based on what my class schedule is. 5 Some nights I have late class, some nights 6 my father works nights, some of the nights 7 my mom's at choir and I'm sure they'll get 8 into all the specifics of that. But the -- 9 Basically the times that we're home are 10 the times that, you know, my parents help 11 me out. And to clarify earlier when I 12 say, "ships passing in the night," I don't 13 get to see my parents as much as I would 14 like to and I'm sure we'd all like more 15 time in the day. 16 Q. Could you give me some 17 approximation of about how many hours per 18 day you would say you are home at the 19 same time as one of your parents? 20 A. Sir, including sleeping? 21 Q. No, not including sleeping. 22 A. Okay. Sir, as a best faith 23 estimate I would say five hours. But when 24 all three of us are there at the same</p>	<p style="text-align: center;">513</p> <p>1 see an object approaching you. 2 Q. Well, let's start with your 3 peripheral vision. What do you remember 4 sitting here today on what you base your 5 25 mile an hour estimate? What do you 6 remember sitting here today that was in 7 your peripheral vision that you base that 8 estimate on? 9 A. Sir, I would imagine same things 10 that you would see driving anywhere on 11 earth. Your visual perception in your 12 peripheral vision is relative which are 13 not focusing on it so you don't see like 14 minor details. You just see movement and 15 the passing of objects. So I could only, 16 as a best faith estimate, say that knowing 17 the road I was on and the area, I more 18 than likely saw in my peripheral vision 19 the houses off to the left, <i>per se</i>, and 20 possibly the shrubs and such on the right 21 side in my peripheral. But again that's 22 only a best faith estimate as what I would 23 likely see in my peripheral vision as 24 driving down that road.</p>
<p style="text-align: center;">512</p> <p>1 time that gets to be a little less. 2 Q. Mr. Wilmot asked you some questions 3 about how you come up with your best faith 4 estimate of -- Do you need a break? 5 A. No, sir. 6 Q. Okay. Mr. Wilmot asked you some 7 questions about how you came up with your 8 best faith estimate that you were 9 traveling about 25 miles an hour at the 10 time of your accident. And one of your 11 answers was that you base that on the 12 visual cues that you had at the time. 13 And I guess my question is: What visual 14 cues are you basing your estimate that you 15 were going 25 miles an hour? Let me 16 rephrase the question. On what visual cues 17 do you base your best faith estimate that 18 you were going 25 miles an hour at the 19 time of your accident? 20 A. Sir, peripheral vision, objects you 21 see passing and the -- As a rough estimate 22 of objects you see in front of you that 23 are approaching you, closing speeds, I 24 guess, we would call off line is when you</p>	<p style="text-align: center;">514</p> <p>1 Q. I'm not asking for what you might 2 or likely would see. You've testified 3 that sitting here today your -- Your best 4 faith estimate is that you were traveling 5 25 miles an hour. And you've testified 6 that you didn't look at the speedometer 7 and that you, today, come up with that 8 estimate based on certain visual cues. 9 And now you've told me that one of those 10 visual cues is what you saw through your 11 peripheral vision. And so what, I guess, 12 I'm asking you is: Sitting here today, 13 what was it in your peripheral vision that 14 you remember seeing that on which you 15 arrive at a 25 mile an hour estimate? 16 MR. CHARNAS: Objection. 17 A. Okay. Sir -- 18 Q. Do you understand the question? 19 A. I do. The peripheral vision is one 20 of the things you use as visual cues when 21 you're estimating speed. I remember 22 seeing the roadway as I was driving on it 23 in my direct vision and also in my 24 peripheral vision so I could see the</p>



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